THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.14886 of 1999

Dated: 21.11.2007

Between:

B.Pullaiah and others.

..... PETITIONERS

AND

The Land Acquisition Officer, Anantapur, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.14886 of 1999

ORDER:

The four petitioners are residents of Peddakotla Village, Tadimarri Mandal, Ananthapur District. They are the owners of houses bearing Nos.422, 433, 435 and 437 respectively. The houses in Peddakotla Village including the petitioners' houses as well as Chinnakotla Village came under the foreshore submersion area of the project called Chitravathi Balancing Reservoir (CBR) in Ananthapur District. Therefore, proceedings under the Land Acquisition Act, 1894 (the Act, for brevity) were initiated. As many as fifteen awards were passed. Insofar the petitioners are concerned their cases are covered by award No.12 of 1999 dated 18.04.1999. The petitioners allege that fourth respondent herein, namely, the Executive Engineer, P.B.C.Division, Pulivendula, Kadapa District, has estimated the value of the houses of the petitioners at Rs.2,35,000/-, Rs.54,300/-, Rs.94,600/- and Rs.45,000/- respectively. They further contend that they are entitled for all the amounts as per the provisions of the Act. Their grievance is that while awarding the amounts for the houses, first respondent, namely, the Land Acquisition Officer (LAO) only applied the orders of the Government in G.O.Ms.No.186, Irrigation & Cad (Project Wing.TBP.1) Department, dated 03.11.1998, whereunder the Government prescribed certain rates of compensation, which did not include the benefits like solatium, additional market value etc. Therefore, they filed instant writ petition seeking a writ of Certiorari to quash G.O.Ms.No.186 dated 03.11.1998 as well as award No.12 of 1999 dated 18.04.1999.

First respondent has filed a counter-affidavit. The allegation that fourth respondent valued the houses of the petitioners at the rates alleged in the writ affidavit is denied. It is stated that as many as 550 houses in Peddakotla Village got submerged in CBR, that these were acquired under fifteen awards and that the petitioners' houses were acquired under award No.12 of 1999 dated 18.04.1999. It is further averred that fourth respondent estimated the value of the houses of the petitioners at Rs.1,89,600/-, Rs.43,400/-, Rs.75,680/- and Rs.25,183/- respectively, that these amounts along with solatium at 30%, additional market value at 12% per annum and interest at 9% per annum were awarded by LAO and that the amounts were paid to the petitioners. A statement showing the particulars of the amounts paid to the petitioners is also enclosed to the counter-affidavit.

After hearing the learned counsel for the petitioners and the learned Government Pleader for Land Acquisition, the only question that

needs consideration is whether the petitioners have made out any case for issue of Certiorari as prayed for.

There is no denial that award No.12 of 1999 dated 18.04.1999 has been passed by LAO fixing appropriate market value. When once an award is passed even if it is based on instant appreciation of the market value by LAO or preliminary valuation statement gathered after making enquiries or valuation of the Government, ordinarily a writ petition would not lie. This position is well settled. Secondly when it is conceded that the Government has power to lay down principles of valuation of houses that got submerged in Irrigation project, the want of jurisdiction or error of jurisdiction cannot be assumed. In the absence of either want of jurisdiction or grave error apparent on the face of record, a writ of Certiorari would not lie. In addition to this as averred in the counter-affidavit of first respondent, all the petitioners were paid the value of the houses as determined by fourth respondent along with the benefits like solatium at 30%, additional market value at 12% per annum and interest at 9% per annum. Though the counter-affidavit was filed on 31.08.1999, no reply-affidavit is filed denying the counter averments. In the absence of the same, the counter averments are deemed to have been admitted.

The writ petition is devoid of merits and the same is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

21st November, 2007
ghn